

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

APR 8 2004

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OFFICE OF
MANAGING DIRECTOR

Mr. Dennis J. Kelly
Counsel for Ronald W. Cowan, Jr
Law Office of Dennis J. Kelly
Post Office Box 41177
Washington, DC 20018

Re: Request for Deferral and Waiver of
FY 2003 Regulatory Fee
WVAB (AM), Virginia Beach, VA
WBVA (AM), Bayside, VA
Fee Control No. 00000RROG-04-038

Dear Mr. Kelly:

This is in response to your request dated February 12, 2004, on behalf of Ronald W. Cowan, Jr., licensee of radio stations WVAB (AM) and WBVA (AM), for deferral and waiver of the fiscal year (FY) 2003 regulatory fees. Those fees, \$2,000 and \$1,625, respectively, were due on September 25, 2003. *See Public Notice, "Federal Communications Commission Extends Filing Deadline of FY 2003 Regulatory Fee,"* DA 03-2907, September 22, 2003. On January 13, 2004, we dismissed your previous waiver request for failure to provide appropriate documentation necessary to establish a compelling case of financial hardship.

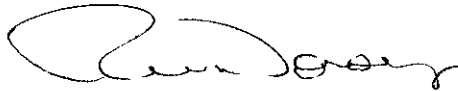
In your re-filed request, you state that on January 15, 2004, Mr. Cowan filed a petition for protection pursuant to the provisions of Chapter 11 of the U.S. Bankruptcy Code in the U.S. Bankruptcy Court for the Eastern District of Virginia. As we advised you previously, the Commission will grant waivers of its regulatory fees on a sufficient showing of financial hardship. Also, as you note, evidence of bankruptcy or receivership is sufficient to establish financial hardship. *See Implementation of Section 9 of the Communications Act*, 10 FCC Rcd 12759, 12761-62 (1995) (waivers granted for licensees whose stations are bankrupt, undergoing Chapter 11 reorganization, or in receivership). The FY 2003 regulatory fees for WVAB (AM) and WBVA (AM), however, were due on September 25, 2003, well before Mr. Cowan filed for bankruptcy. Evidence that Mr. Cowan filed a petition for protection pursuant to the provisions of Chapter 11 of the U.S. Bankruptcy Code on January 15, 2004 does not establish financial hardship at the time the FY 2003 fees were due. In addition, although we advised you of the specific types of information that would be relevant to a claim of financial need for FY 2003 in our January 13, 2004 dismissal letter, you provide no other information to support your claim in your refiled request. Thus, you have failed to establish a compelling case of financial hardship and your request for waiver of WVAB and WBVA's FY 2003 regulatory fees is denied.

Mr. Dennis J. Kelly

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Payment of the FY 2003 regulatory fees in the amount of \$3,625 for the two stations is now due. This payment should be submitted together with a Form 159 (copy enclosed) within 30 days from the date of this letter. If you have any questions concerning this matter, please contact the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark A. Reger".

 Mark A. Reger
Chief Financial Officer

Enclosure

00000 R ROG-04-038

Law Office of
DENNIS J. KELLY
Post Office Box 41177
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MEMBER, DISTRICT OF COLUMBIA BAR ONLY,
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February 12, 2004

RECEIVED

Honorable Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
Washington, DC 20554

FEB 12 2004
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Attention: Mark A. Reger
Chief Financial Officer

RE: WVAB(AM), Virginia Beach, VA
WBVA(AM), Bayside, VA
FY 2003 Regulatory Fees
Control No. 00000RROG-04-023

Dear Madame Secretary:

On behalf of Ronald W. Cowan, Jr., licensee of AM Broadcast Stations WVAB, Virginia Beach, Virginia and WBVA, Bayside, Virginia, this is to respond to your letter dated January 13, 2003 dismissing Mr. Cowan's petition for deferral of regulatory fees for fiscal year 2003. As we understand it, the regulatory fee for WVAB for fiscal year 2003 was \$2,000, and the fee for WBVA was \$1,625.

On January 15, 2004, Mr. Cowan filed a petition in the United States Bankruptcy Court for the Eastern District of Virginia for protection under Chapter 11 of the federal bankruptcy code, Case No. 04-70278-DHA.

In paragraph 14 of **Implementation of Section 9 of the Communications Act**, 10 FCC Rcd 12759 (1995), the Commission stated as follows:

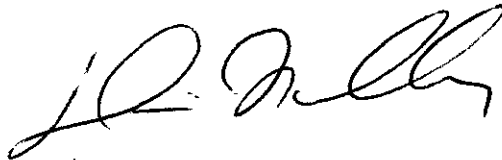
We have also received petitions for waivers from licensees of stations which are legally bankrupt, undergoing Chapter 11 reorganizations, or are in receivership. Evidence of bankruptcy or receivership is sufficient to establish financial hardship. Moreover, where a bankruptcy trustee, receiver, or debtor in possession is negotiating a possible transfer of a license, the regulatory fee could act as an impediment to the negotiations and the transfer of the station to a new licensee. Thus, we will waive the regulatory fees for licensees whose stations are bankrupt, undergoing Chapter 11 reorganizations or in receivership.

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As Mr. Cowan is now seeking reorganization under Chapter 11 of the bankruptcy code, it is respectfully requested that the Commission waive the regulatory fees for fiscal year 2003, or, in the alternative, defer the fees until such time as a plan of reorganization is approved and the bankruptcy estate is in a position to pay pre-petition creditors.

Should additional information be desired in connection with the above matter, kindly communicate with Mr. Cowan's bankruptcy counsel, Joseph T. Liberatore, Esquire, Marcus, Santoro & Kozak, P.C., 1435 Crossways Boulevard, Suite 300, Chesapeake, VA 23320, telephone 757-222-2224.

Very truly yours,

A handwritten signature in black ink, appearing to read "D. Kelly", written in a cursive style.

Dennis J. Kelly